

fendant company, said that ultimately they intended to use the name "Gramm" on a name-plate for the truck "manufactured" by them, and admitted that he had an eye on the plaintiff company.

For a year the plaintiffs had an arrangement to get supplies from the American Gramm-Bernstein Company, after the former American Gramm company had gone out of existence, but the advertising was all along with reference to the Canadian Gramm company, and that was the distinctive catch-word used, of which the defendants are willing to reap the benefit.

Evidence was given and it is common experience that when you have a compound or hyphenated word the tendency is to use only part of it, and usually the first part, especially if it is shorter than the latter part. I agree with what the witnesses say, that the use of "Gramm-Bernstein" in advertising motor trucks will breed confusion to the disadvantage of the plaintiffs, and that thereby the new-comers will interfere certainly with the trade of the older company.

I would note that Mr. Gramm is not in any way connected with the other company, and that they have no right to use his name as against the plaintiffs.

The case falls within the authority of *Kingston Miller & Co. Ltd. v. Thomas Kingston & Co. Ltd.*, 29 R.P.C. 289, and also within *Lloyd's v. Lloyd's* (Southampton) *Ld.*, 29 R.P.C. 433.

As the defendants have no right to use the name "Gramm" (as a personal name), I think that they should be enjoined from the use of it in labelling and advertising and selling their motors.

As to prohibiting the use of the leading word in a company's name, see *Facsimile Letter Printing Co. Ltd. v. Facsimile Typewriting Co.*, 29 R.P.C. 557. A case cited in *Sebastian on Trade Marks*, 4th ed., p. 260, may be usefully referred to—*Shaver v. Shaver*, 54 Iowa 208.

It has not appeared needful to discuss the registered trade mark obtained by the plaintiffs: enough has been proved as to the trade name to justify the intervention of the Court. The name "Gramm" was the badge selected by the plaintiffs by which the motor trucks dealt in should be identified with the company. The business of the plaintiffs was to select or procure the component parts and set up thereout the complete vehicle with various modifications and improvements which resulted in a distinct product that was extensively advertised,